

HOUSE RESEARCH ORGANIZATION • TEXAS HOUSE OF REPRESENTATIVES

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# HOUSE RESEARCH ORGANIZATION

## daily floor report

Wednesday, May 13, 2015  
84th Legislature, Number 69  
The House convenes at 9 a.m.

Three bills are on the Major State Calendar for second-reading consideration today:

HB 1798 by Deshotel	Establishing local control school districts	1
HB 3994 by Morrison	Judicial bypass for minors seeking an abortion	6
HB 2433 by Burkett	Continuing the Department of Family and Protective Services	14



Alma Allen  
Chairman  
84(R) - 69

**SUBJECT:** Establishing local control school districts

**COMMITTEE:** Public Education — committee substitute recommended

**VOTE:** 8 ayes — Aycock, Bohac, Deshotel, Dutton, Farney, Galindo, Huberty, K. King

3 nays — Allen, González, VanDeaver

**WITNESSES:** For — Al Arreola, South San Antonio Chamber of Commerce; Adam Jones and Caprice Young, Texans for Education Reform; Andrew Benitez; Mike Morath; (*Registered, but did not testify*: Peggy Venable, Americans for Prosperity-Texas; Nelson Salinas, Texas Association of Business; Justin Yancy, Texas Business Leadership Council; Courtney Boswell and Cameron Petty, Texas Institute for Education Reform; Max Jones, The Greater Houston Partnership)

Against — Ted Melina Raab, Texas American Federation of Teachers; Lonnie Hollingsworth, Texas Classroom Teachers Association; Ed Martin, Texas State Teachers Association; Monty Exter, The Association of Texas Professional Educators; (*Registered, but did not testify*: Barry Haenisch, Texas Association of Community Schools; Colby Nichols, Texas Association of Community Schools, Texas Rural Education Association; Mark Terry, Texas Elementary Principals and Supervisors Association; Yannis Banks, Texas NAACP; Bob Popinski, Texas School Alliance)

On — Grover Campbell, Texas Association of School Boards; (*Registered, but did not testify*: Von Byer, Texas Education Agency)

**BACKGROUND:** Education Code, subch. B establishes a petition process for a school district to adopt a home-rule school district charter.

**DIGEST:** CSHB 1798 would replace provisions in Education Code, ch. 12, related to a home-rule school district, with a petition process for a school district to become a local control school district.

**Petition.** A school board would be required to appoint a local control commission to frame a local control plan if the board received a petition signed by at least 5 percent of registered voters of the district or at least two-thirds of the board adopted a resolution. A petition could designate one or more persons as lead petitioner.

A petition would have to include language stating the intent to appoint a commission to propose a local control plan for the specified district and that the commission would be composed of 15 district residents.

**Local control commission.** Within 30 days of receiving a petition, the board would be required to appoint seven residents selected by the board and eight residents selected by the lead petitioner. The membership would have to reflect the racial and ethnic diversity of the district's voting-age population. The board and lead petitioner would each select at least four parents of children attending district schools, at least one district administrator, and one district classroom teacher.

If the board initiates the commission, the board would name at least eight parents of children attending district schools; at least two district administrators; and two district classroom teachers.

A commission would be required to hold at least three public hearings and would have one year to complete the proposed local control plan.

**Elections.** As soon as practicable after receiving commissioner approval, the board would order an election on the proposed plan, which would have to be submitted to voters at a uniform election date in November of an even-numbered year. The bill would eliminate a requirement applicable to a proposed home-rule school district charter that at least 25 percent of registered voters must participate in the charter adoption election.

The bill would apply Election Code provisions regulating political funds and campaigns to a petition and a local control plan election.

**Local control plan.** A local control plan would describe the education program to be offered and could change the structure of the district governing body. A local control district would be required to comply with

state curriculum, testing, and accountability requirements. It would be exempt from certain laws, including elementary class size limits.

The commissioner of education would have 30 days to complete a legal review of a proposed local control plan and could recommend modifications. If the commissioner did not act within 30 days, the proposed plan would be considered approved.

If approved by voters, the plan would remain in effect for at least four years. After that time, the governing body of the local control district could submit amendments to the commissioner, or a petition to amend a local control plan could be submitted to the district governing body.

**Rescission.** A local control plan could be rescinded if the governing body received a petition requesting a rescission election signed by at least 5 percent of voters or if at least two-thirds of the governing body adopted a resolution. A proposal to rescind the plan would be submitted to voters at the first uniform election date in November of an even-numbered year that occurs at least 78 days after the date on which the governing body ordered the election.

The commissioner would be required to adopt procedures for placing a local control school district on probation or revoking the plan if the district violated the plan, failed to comply with fiscal management standards, or violated applicable laws.

A local control district would be treated the same as an independent school district for purposes of governmental liability and immunity. Teacher and administrator evaluations would remain confidential to the same extent as in traditional school districts.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2015.

SUPPORTERS  
SAY:

CSHB 1798 would allow citizens who were concerned about their local school district to petition to become a local control school district. Some school boards become overly focused on operational issues such as

contracting and less attentive to improving student learning. The bill would provide a process for dissatisfied parents and other interested parties to force changes in local district governance and education policy.

The bill would replace the existing home-rule charter process that has proved unworkable. The home-rule process was designed in 1995 as an alternative for districts to reduce regulatory burdens and try innovative ideas to meet unique local needs. It has never been successfully used. A petition drive in 2014 initiated an effort to write a home-rule charter for Dallas ISD, but the home rule commission voted not to create a charter. The bill would add more transparency and greater community participation to the process of creating a local control school district.

The term “home rule” traditionally is associated with cities and the bill would replace that term with “local control” to better describe the desired outcome. The bill would ensure that a community-led petition and local control plan election were subject to state campaign finance laws.

The bill would provide for greater community participation by allowing the petition organizers to appoint a majority of the commission that would write the local education plan. The local school board would remain involved in the dialogue by naming the remaining commission members. The bill would ensure parental involvement by requiring that a majority of appointed members be parents of district students. The commission would have to hold at least three public meetings.

The bill would eliminate the 25 percent voter turnout threshold for adoption of a local education plan, which has been considered an arbitrary barrier. Instead, the election would be held in conjunction with a November general election in an even-numbered year. The bill also would give a local control plan time to succeed by requiring it to be operable for four years before it could be amended.

The selected state laws that would not apply to a local control district are largely those that currently do not apply to open-enrollment charter schools. Many charter schools are operating successfully without those laws. Additionally, the bill would require local control districts to follow certain student safety requirements related to bullying and discipline that

have been implemented since the initial 1995 home-rule law.

**OPPONENTS  
SAY:**

CSHB 1798 would establish a petition process to bypass a locally elected school board in favor of an untested alternative governing structure. The bill does not specify that governance of a local control district would remain with an elected body. The result could be a governing board appointed by a mayor or county judge.

A local control district, if established, would be exempt from a host of state laws designed to protect students, teachers, and parents. The notion that neighborhood schools would be improved by eliminating state standards such as class size limits, teacher contract rights, and limitations on student expulsions is wrong. Rather than lower state quality standards, legislators should provide funding for smaller class sizes and other resources to help students succeed.

SUBJECT: Judicial bypass for minors seeking an abortion

COMMITTEE: State Affairs — committee substitute recommended

VOTE: 7 ayes — Cook, Craddick, Farney, Geren, Harless, Kuempel, Smithee  
3 nays — Giddings, Farrar, Oliveira  
2 absent — Huberty, Sylvester Turner

WITNESSES: For — Erin Groff and Joe Pojman, Texas Alliance for Life; Stephen Casey and Greg Terra, Texas Center for Defense of Life; Emily Horne, Emily Kebodeaux, and John Seago, Texas Right to Life; Jack M. Finger; (*Registered, but did not testify*: Glenna Hodge, Campaign for Texas Families; Gregory Young, Chosen Generation Radio Show Family Christian Center Bandera Texas; Michael Weaver, Churches; Angela Smith, Fredericksburg Tea Party; Myra Meyers, Operation Outcry; Jason Vaughn, Pro-Life Texas; Kyleen Wright, Texans for Life; Ruth Allwein and Terry Williams, Texas Alliance for Life; Jeffrey Brooks, Texas Conservative Coalition; Pat Carlson, Texas Eagle Forum; Jeremy Newman, Texas Home School Coalition; Allan Parker, The Justice Foundation; Jennifer Allmon, The Texas Catholic Conference of Bishops; Cody Haynes, TXAP; Rachel Bush; Read King; Sandra Vela; Lynn Williams)

Against — Tina Hester, Jane’s Due Process; Jane McFarland, League of Women Voters-Texas; Will Francis, National Association of Social Workers-Texas Chapter; Veronica Higareda, National Latina Institute for Reproductive Health; Ana DeFrates, National Latina Institute for Reproductive Health on behalf of the Trust Respect Access Coalition, Truth Respect Access Coalition; Schell Carpenter, The Lilith Fund for Reproductive Equity; and eight individuals; (*Registered, but did not testify*: Victor Cornell, American Civil Liberties Union of Texas; Ann Hettinger, Concerned Women for America of Texas; Robert Nolen, Harris County District Clerk; Paul Coselli, Harris County District Clerk Office; Xavier Herrera, Harris County District Clerk’s Office; Emily Rooke-Ley, Jane’s Due Process; Susy Hemphill, Lilith Fund; Heather Busby, NARAL

Pro-Choice Texas on behalf of Trust Respect Access Coalition; Amelia Long, NARAL Pro-Choice Texas; Susan Pintchovski, National Council of Jewish Women-Austin; Lucy Felix, Dora Marroquin, Dinorah Martinez, Violeta Reyes, and Joceline Reyes, National Latina Institute for Reproductive Health; Phillip Martin and Lucy Stein, Progress Texas; Katherine Miller, Texas Freedom Network; Peggy Morton, Texas Unitarian Universalist Justice Ministry; Amanda Williams, The Lilith Fund; Jan Soifer, Travis County Democratic Party; Andrea Ferrigno, Trust Respect Access and Whole Woman's Health; Chuck Freeman, Texas Unitarian Universalist Justice Ministry; and 41 individuals)

On — Tena Callahan; (*Registered, but did not testify*: Tammy Sajak, Department of State Health Services; Jason Vaughn, Young Republicans)

**BACKGROUND:** Family Code, sec. 33.002 requires a physician to give 48 hours' notice to a parent, managing conservator, or guardian before performing an abortion on a pregnant, unemancipated minor. Under Family Code, sec. 33.003, a pregnant minor who wishes to have an abortion without notifying one of her parents, her managing conservator, or her guardian may file an application for a court order authorizing the minor to consent for an abortion to be performed and to exempt the minor from the notification requirement. The application may be filed in any county court at law, court having probate jurisdiction, or district court, including a family district court, in Texas.

**DIGEST:** CSHB 3994 would add new requirements to state laws governing judicial bypass, the process under which a judge may grant minors an exemption from parental consent laws.

**Identification and consent.** The bill would require a physician to presume that a pregnant woman was a minor unless the woman presented valid governmental record of identification showing that she had reached the age of maturity. A physician would not be permitted to perform an abortion in violation of Occupations Code, sec. 164.052(a)(19), which prohibits a physician from performing an abortion on an unemancipated minor without the written consent of the child's parent, managing conservator, or legal guardian or without a court order.



**Application for court order.** Under the bill, a pregnant minor who wished to have an abortion without notification to and consent of a parent, managing conservator, or guardian could file an application for a court order authorizing the minor to consent to the performance of an abortion. The application with the court could only be filed in the minor's county of residence, in a neighboring county if the minor's county of residence had a population of less than 10,000 people, or in the county in which the facility at which the minor intended to obtain an abortion was located.

The bill would require the application to include, in addition to existing requirements, a statement that the minor wished to have an abortion without the notification to or consent of a parent, managing conservator, or guardian.

**Guardian and attorney ad litem.** The court would appoint a guardian ad litem for the minor who would be required to represent the best interest of the minor. The guardian ad litem could not also serve as the minor's attorney. The bill would require the pregnant minor to appear before the court in person, not using videoconferencing, telephone conferencing, or other remote electronic means.

**Time requirements.** Under current law, the court or court of appeals is required to rule on an application or appeal and issue written findings of fact and conclusions of law within two business days after the application is filed. The bill would extend this period to five business days. The bill would remove a requirement for a court to enter judgment on the application immediately after the hearing on the application was concluded. Proceedings regarding the minor's application or an appeal would be given precedence over other pending matters to the extent necessary to assure that the court reached a decision promptly, regardless of whether the minor was granted an extension.

If the court or a court of appeals failed to rule on an application or an appeal within five days, the bill would require the court clerk to issue to the physician a certificate showing that the court failed to rule on the application. Upon receipt of the certificate, the physician could perform the abortion as if the court had issued an order authorizing the minor to consent to the abortion without the notification and consent of her parent,

managing conservator, or legal guardian, or without a court order.

**Grounds for court determinations.** The bill would require the court to make a determination based on clear and convincing evidence, rather than a preponderance of evidence, on whether the minor had overcome the presumption that notifying and requesting consent from a parent, managing conservator, or guardian was in the minor's best interest. The bill would change the grounds for a court to consider in making a determination to include the following:

- whether the minor was mature and sufficiently well-informed to make the decision to have an abortion performed without notification to or consent of a parent, managing conservator, or guardian;
- whether the abortion would be in the best interest of the minor; and
- whether notification or the attempt to obtain consent could lead to physical, sexual, or emotional abuse of the minor, as described by Family Code, sec. 261.001 related to investigation of reports of child abuse and neglect.

The bill also would require the court to consider new grounds for consent related to the experience, perspective, and judgment of the minor. The court could consider all relevant factors, including:

- the minor's age;
- the minor's life experiences, such as working, traveling independently, or managing her own financial affairs;
- steps taken by the minor to explore her options and the consequences of those options; and
- the minor's decision not to notify and obtain consent from a parent, managing conservator, or guardian.

In determining whether the abortion would be in the best interest of the minor, the court could:

- inquire as to the minor's reasons for seeking an abortion;
- consider the degree to which the minor was informed about the

state-published informational materials described by Health and Safety Code, ch. 171, the Woman's Right to Know Act; and

- require the minor to be evaluated by a licensed mental health counselor, who would be required to return the evaluation to the court for review within three business days.

The bill would specify that if the court found that the minor was mature and sufficiently well-informed, that the abortion would be in the minor's best interest, or that notification or the attempt to obtain consent could lead to physical, sexual, or emotional abuse of the minor, the court would enter an order authorizing the minor to consent to the performance of the abortion without notification to and consent of a parent, managing conservator, or guardian and would execute the required forms. Otherwise, the court would not authorize the minor to consent to an abortion.

**Records and reports.** The bill would require the clerk of the court to retain records for each case before the court in accordance with rules for civil cases and to grant access to the records to the minor who was the subject of the proceeding. The bill would allow the court of appeals handling a minor's appeal to publish an opinion related to a ruling if the opinion were written in a way to preserve the confidentiality of the identity of the pregnant minor.

The bill also would allow confidential records pertaining to a minor, including court documents, court proceedings, and the application to be disclosed to the minor. The bill would require the clerk of the court, at intervals prescribed by the Office of Court Administration to submit a report to the office that would include, for each case filed, information about the case specified in the bill, such as the date of filing, the applicant's county of residence, and the court in which the proceeding occurred. The office would aggregate this case data and publish a report annually. The bill would require the report to protect the anonymity of all minors who were subjects of the report. The Office of Court Administration would not be required to publish an initial report until January 1, 2017.

**Suspected abuse.** The bill would require a physician who had reason to

believe that a minor had been or could be physically or sexually abused to immediately report the suspected abuse to the Department of Family and Protective Services and to refer the minor to department services that could be in their best interest. The bill would specify that a minor's claim that she was being physically or sexually abused would constitute a reason to believe that the abuse had occurred. A report made to the department would be investigated as provided by Family Code, ch. 261.

**Severability.** Every provision in the bill and every application of the provisions in the bill would be severable from each other. If any provision were found by a court to be invalid, the remainder of the bill would stand.

The bill would take effect January 1, 2016, and would apply only to an offense committed or a petition filed on or after this date.

**SUPPORTERS  
SAY:**

CSHB 3994 would improve the protection of a minor girl who wished to have an abortion, while ensuring the protection of parental rights. By requiring a judge to ask more substantial, relevant, and considerate questions of the minor, the bill would allow a court to have the tools it needs to find the relevant facts before reaching an important decision about authorization for abortion. The language in the bill was developed through consultation with stakeholders and represents a balance between the best interest of a minor girl and parental rights.

Extending the time a court would have to make a determination would allow the court enough time to make a considered decision about whether an abortion was in a minor girl's best interest. Such a determination is important and should not be rushed, but the time limit in the bill would not be so long as to compromise the minor's rights.

The bill also would ensure that a minor girl was well informed and mature enough to undergo an abortion by requiring the minor to provide clear and convincing evidence rather than a preponderance of evidence that an abortion was in her best interest. The use of clear and convincing evidence is a common standard in family law.

The bill also would separate the roles of the attorney ad litem and the guardian ad litem to reduce conflict of interest and to ensure that the

guardian ad litem could properly provide an unbiased view of what was in the best interest of the minor.

The identification requirement in the bill is an important, common-sense requirement that would ensure that a physician did not perform an abortion on a minor girl without the appropriate consent from her parent, managing conservator, guardian, or from a court order. The large majority of Texans have some form of government-issued identification; it is not unreasonable to require it.

The language in the bill would provide protection for minor girls who might be in danger by requiring a judge to consider whether parental notification or the attempt to obtain consent could lead to physical, sexual, or emotional abuse. The bill would provide additional protections for the minor by allowing the court to ask considerate and relevant questions about why the minor girl was seeking an abortion and whether she was fully informed about her other options before authorizing her to consent to her own abortion.

Limiting the venue for judicial bypasses to the minor's county of residence, a nearby county, or the county where the abortion would be performed would improve the accountability of judges and ensure the judge would give appropriate consideration to the minor's application. The bill would protect the minor's confidentiality by allowing her a choice of venues.

**OPPONENTS  
SAY:**

CSHB 3994 could put women and minors at risk by increasing the time it would take to petition a court for permission to have an abortion and by requiring government-issued identification for all women seeking an abortion.

Many minors seek judicial bypass because they might be at risk or endangered if they had to have parental consent. Making the infrequent procedure of judicial bypass harder for minor girls to access could cause a minor's pregnancy to become more noticeable following a long wait, which could increase the chance of domestic abuse against the minor. The language in the current law was worked out through compromise with many stakeholders and balances protection for a minor with parental

rights; it does not need to be changed.

The increased evidence requirement in the bill would place an unreasonable and unnecessary burden on minors to meet the new standard within the time constraints of accessing a safe, legal abortion. The requirement for minors to file bypass petitions only in their own county, a neighboring county, or the county in which they would have the abortion also could compromise the confidentiality of the proceedings.

Requiring all women to provide identification to a physician to prove they were not a minor before accessing an abortion also would be an unreasonable restriction, as some women do not have a government-issued identification because they cannot afford it or because they are undocumented.

Limiting the venue for judicial bypasses to certain counties could compromise confidentiality. People working at the court or attending to other matters might know the minor and attempts to secure an attorney could compromise her confidentiality.

OTHER  
OPPONENTS  
SAY:

CSHB 3994 would increase the two-day limit for a judge to make a decision on a case to five days, but this provision would still allow authorization about an abortion to be automatically granted if a judge did not rule within that time period. A provision for automatic granting of permission after any time period should be completely removed from law to bring abortion petitions into line with other types of petitions. Normally a petition is assumed to have been denied, not automatically granted, if a judge does not respond within a certain number of days.

SUBJECT: Continuing the Department of Family and Protective Services

COMMITTEE: Human Services — committee substitute recommended

VOTE: 8 ayes — Raymond, Rose, Keough, S. King, Klick, Naishtat, Peña, Spitzer

0 nays

1 absent — Price

WITNESSES: For — (*Registered, but did not testify*: Katherine Barillas, One Voice Texas; Ashley Harris, Texans Care for Children)

Against — Judy Powell, Parent Guidance Center

On — (*Registered, but did not testify*: Audrey Carmical and John Specia, Department of Family and Protective Services; Kyle Janek, Health and Human Services Commission; Amy Tripp, Sunset Advisory Commission)

BACKGROUND: **Department overview.** The Department of Family and Protective Services (DFPS) exists to protect children, adults 65 years of age or older, and individuals with disabilities. It was created in 2003 as part of a consolidation of health and human services agencies. The department's functions were drawn from the former Department of Protective and Regulatory Services.

A commissioner appointed by the executive commissioner of the Health and Human Services Commission oversees operations of DFPS. The HHSC executive commissioner and the DFPS commissioner develop rules and policies for the department with input from an advisory council appointed by the governor.

DFPS investigates allegations of abuse or neglect of children or vulnerable adults, places abused or neglected children in alternative living arrangements while seeking to address their long-term needs, and provides other services to help prevent abuse and neglect in these populations. In

addition, the agency regulates child-care centers and residential child-care facilities to ensure that minimum standards for health and safety are met.

In fiscal 2013, the agency received nearly 229,334 reports of alleged child abuse or neglect, according to the Sunset Advisory Commission. In the same year, the agency received 98,920 allegations of abuse, neglect, or exploitation of elderly or disabled individuals. Staff also conducted 37,128 day-care inspections and completed 18,429 investigations in fiscal 2013.

**Budget and staffing.** In fiscal 2013, the agency spent \$1.37 billion, a little more than half of which was provided through federal funding streams. General revenue contributed 47 percent or \$645 million toward the agency's spending. At the end of the fiscal 2013, the department employed 10,650 staff and was authorized to fill 11,175 FTEs.

Child Protective Services (CPS) is the largest division within the agency, employing 7,759 of the department's filled positions and spending about 85 percent of its funds. The Adult Protective Services and Child Care Licensing divisions employed 958 and 509 staff, respectively, at the end of 2013. DFPS also operates a Prevention and Early Intervention program by contracting with local providers to deliver services in communities. The 83rd Legislature added 1,175 positions to the department's staffing for fiscal 2014-15. Most of these were CPS caseworkers, but 41 positions were added to support investigations of illegal child care operations.

**DIGEST:** CSHB 2433 would continue the Department of Family and Protective Services (DFPS) until September 1, 2027.

The bill would make various changes to Family Code, ch. 263, which governs the review of placement of children under the care of DFPS, and ch. 264, which governs child welfare services. The bill also would make changes to other sections of the Family Code, including those governing adoption, investigations of child abuse or neglect reports, prevention and early intervention services, and educational services for children in foster care.

The bill would change procedural elements associated with the agency's



assuming and managing conservatorship of children who were separated from their parents because of suspected or proven abuse or neglect. Some changes would change measures designed to protect children who were in the care of the state. For example, the bill would require shorter timelines for the completion of home studies and background checks in certain situations.

**Notifications.** CSHB 2433 would make several changes to the notification procedures for parents and others involved with a child in managing conservatorship of DFPS, including requirements that the department:

- make a reasonable effort to notify a child's parent within 24 hours if there was a significant change in the medical condition of the child, if the child was enrolled or participating in a drug research program, or if the child received an initial prescription of psychotropic medication;
- notify a child's parent or parent's attorney, as well as other concerned parties, within 48 hours before a change to a child's residential child care facility; and
- notify a child's parent or parent's attorney as well as other concerned parties as soon as possible but not later than 10 days after the department became aware of a significant event affecting a child in the conservatorship of the department.

**Information for prospective adoptive parents.** The bill would provide for changes to the type of information shared with prospective adoptive parents and the manner in which the information would be shared. The bill would:

- allow the department to modify the form and contents of the health, social, educational, and genetic history report for a child based on factors specified by the department; and
- require the department to provide a child's case record upon request to prospective adoptive parents who had reviewed the history report and indicated a desire to proceed with the adoption

**Reporting requirements.** CSHB 2433 would specify certain reporting

requirements for the department, including a report of statistics by county that related to key performance measures and data elements for child protection. This annual report would have to be made publicly available and would include information on the number of child abuse and neglect reports, the number of child deaths from abuse and neglect in the state, the number of children in managing state conservatorship at the time of their death, and the timeliness and the achievement of certain programmatic goals. The bill also would require the department to conduct an annual process to seek and evaluate public input on the usefulness of reporting requirements and any proposed changes.

**Changes to Education Code.** CSHB 2433 would make several changes to the Education Code. For example, the bill would:

- provide for additional continuity related to a child's attendance at a school regardless of certain other changes in the child's conservatorship status;
- provide additional reasons for an excused absence from school for a child in conservatorship, including allowing an absence for an activity required under the child's service plan; and
- remove a prohibition on allowing tuition benefits for children who had exited DFPS conservatorship and were returned to their parents in certain situations.

**New planning requirements.** CSHB 2433 would require DFPS to improve its planning in three major areas.

*Child Protective Services plan.* The bill would require that DFPS develop and implement an annual business plan for the Child Protective Services program, which would include long-term and short-term performance goals, identification of priority projects, a statement of staff expectations identifying responsible persons or teams, tasks and deliverables expected, resources needed to accomplish each project, a time frame for the completion of each deliverable and project, and the expected outcome for each project. By October 1 each year, the annual business plan would be submitted to the governor, lieutenant governor, speaker of the House, and chairs of the standing committees of the House and Senate with primary jurisdiction over child protection issues.

*Prevention and early intervention services plan.* The bill would require that DFPS develop and implement a five-year strategic plan for its prevention and early intervention services program. The plan would identify methods to leverage other sources of funding or provide support for existing community-based prevention efforts and would include a needs assessment that identified programs to best target the needs of the highest-risk populations and geographic areas. It also would have to identify the goals and priorities for the department's overall prevention efforts, identify methods to collaborate with other state agencies on prevention efforts, and identify specific strategies to implement the plan and to develop measures for reporting on the overall progress toward the plan's goals. The plan would be required to be posted on its website.

*Foster care redesign plan.* The bill would require that the agency develop and maintain a plan for implementing its foster care redesign initiative. The plan would have to include:

- a description of the department's expectations, goals, and approach to implementing foster care redesign;
- a timeline for implementing foster care redesign throughout the state, any limitations related to the implementation, and a contingency plan to provide continuity of foster care services delivery if a contract with a single source continuum contractor ended prematurely;
- delineation and definition of the case management roles and responsibilities of the department and the department's contractors and the duties, employees, and related funding that would be transferred to the contractor by the department, along with identification of training needs;
- a plan for evaluating the costs and tasks associated with each contract procurement, including the initial and ongoing contract costs for the department and contractor;
- the department's contract monitoring approach and a plan for evaluating the performance of each contractor and the foster care redesign system as a whole that would include an independent evaluation of processes and outcomes; and

- a report on transition issues resulting from implementation of the foster care redesign.

DFPS would update the implementation plan and post the updated plan on its website annually.

**Changes to child care licensing.** CSHB 2433 would authorize more discretion in assessing administrative penalties for high-risk child care license violations. The bill also would direct the agency to develop, adopt, and publicize an enforcement policy that would delineate how the department determined appropriate disciplinary action for violations. The bill also would provide more flexibility to the agency in setting fees associated with child care licensing and would provide for the creation of a license and registration renewal process.

**Sunset provision and effective date.** Unless continued in existence as provided by the Texas Sunset Act, the department would be abolished on September 1, 2027. This provision would take effect only if HB 2304 by Price, SB 200 by Nelson, or similar legislation under consideration by the 84th Legislature did not become law. If HB 2304, SB 200, or similar legislation became law and provided for the continuation of the department, this provision would have no effect.

With the exception of certain executive commissioner rules related to licensing, certification, and registration renewals, the bill would take effect September 1, 2015.

**SUPPORTERS  
SAY:**

CSHB 2433 reflects the best efforts of many people to make essential changes to the Department of Family and Protective Services (DFPS) that would improve the lives of children in foster care, better protect children cared for in licensed or other regulated child care facilities, and improve the strategic planning of the agency. The bill also would reduce administrative burdens on DFPS caseworkers, which would assist them in doing their jobs more effectively and, allow them to spend more time with children and families, with the goal of reducing turnover. The bill would represent a substantial step forward in improving outcomes for the state's most vulnerable populations.

In its recent reports, the Sunset Advisory Commission characterized the DFPS as an agency frequently responding to crisis and criticism. The commission identified turnover of caseworkers, who are in a difficult and highly stressful work environment, as one of the biggest challenges the agency faces. Therefore, reducing unnecessary work for caseworkers became a core part of responding to the Sunset commission's findings. A key recommendation in the February 2015 Sunset report was to eliminate, clarify, and streamline burdensome and prescriptive statutory requirements. CSHB 2433 is a reflection of the items that emerged from the process of determining which changes should be made through legislation and which should be made through other means.

Stakeholders have worked extensively on the bill to ensure it reflects the relevant recommendations made by the Sunset Advisory Commission and that it would balance the needs of the agency, the rights of parents, and the safety and well-being of children. The findings of an operational review conducted by the Stephen Group, input from DFPS, and the recommendations of a workgroup appointed by Sen. Jane Nelson were considered along with the Sunset Advisory Commission's findings and recommendations in formulating the bill.

The notification requirements of the bill appropriately would allow communication to parents via an attorney. While it is the standard practice of DFPS to notify parents, sometimes they prefer to receive communication through an attorney. The fact that attorneys have an ethical obligation to notify their clients creates an assurance that parents always would be notified appropriately. Requiring the department always to notify parents, regardless of the situation at hand, would be overly rigid and would place a burden back on the caseworkers who would have to provide the notification.

CSHB 2433 would allow DFPS to retain some discretion regarding which information to release to prospective adoptive parents, including the ability to modify the form they are required to use. The bill would require the agency to provide the child's case record if prospective adoptive parents requested it after receiving other information. This would be a sufficient and balanced approach.

The bill would require DFPS to report broad categories of data while not being overly prescriptive. This would be consistent with one intention of the bill — to eliminate specific measures in statute and give DFPS greater flexibility. The bill also would require DFPS to conduct a process each year to allow for stakeholder input on the measures DFPS should report. Stakeholders would have the opportunity to participate in the process required by the bill and advocate for any new measures they thought were important.

OPPONENTS  
SAY:

While CSHB 2433 reflects effort and progress in improving the quality of services for children in foster care or who are otherwise affected by DFPS' work, there are some specific improvements that the bill would not address.

The bill includes a provision that would give DFPS the option to notify a parent or attorney in certain situations, but a parent always should be notified. By not clearly stating that a parent would have to be notified in the case of a significant event, the bill would create circumstances in which notification did not happen. This would be unfair to the parent and not good for the child.

DFPS should not have discretion regarding which information to release to prospective adoptive parents or the ability to modify the form they are required to use. Prospective adoptive parents need full access to certain information that can be critical in their decision to go forward with an adoption.

New reporting requirements in the bill should include reporting on the number of pregnant and parenting youth in foster care and the number who have been missing and have been victims of trafficking while in foster care. These are significant problems that are well known to be prevalent among foster youth, and they need to be tracked.

NOTES:

The Legislative Budget Board estimates CSHB 2433 would have a negative net impact of \$1.4 million to general revenue through fiscal 2016-17.